IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8482 OF 2003

Shri Vasant Bhagwan Jadhav .. Petitioners.
Vs.
Shri Shankar Jadhav & Ors. .. Respondents.

Mr.Thokade i/b Mr.D.B.Lonkar for the petitioners.
Mr.Anilkumar R.Joshi for respondent no.1.
Mr.S.P.Kadam for respondent no.3.

CORAM : D.B.BHOSALE, J.
DATED : 27TH SEPTEMBER, 2006

P.C.:

. Heard learned counsel for the petitioners, respondent no.1 and respondent no.3.

2. This petition is directed against the order dated 18.8.2003 passed by the trial Court on Civil Miscellaneous Application No.21 of 1999 filed by the petitioners seeking condonation of delay in bringing on record the heirs and legal representatives of the deceased-plaintiff. The said application has been allowed by the impugned order.

3. The suit was filed by one Keshav Jadhav, father of respondent no.1, who died during pendency of the suit, and as a consequence thereof the order dismissing the suit as abated was passed by the trial Court on 27.7.1995. The application for setting aside

abatement and for condonation of delay was filed on 21.9.1999 which came to be allowed by the order impugned in the present writ petition. The ground mentioned in the application was that the heirs of the deceased plaintiff were not aware about the dismissal of the suit as abated and they came to know about the same only when they were informed by defendant no.1. They immediately filed application for setting aside the abatement and condonation of delay. Mr.Thokade, learned counsel for the petitioner submitted that the cause shown by respondent no.1 for condonation of delay was false and imaginary one. Defendant no.1 had never informed the plaintiff-respondent no.1 about the dismissal of the suit as abated and he has so admitted in his cross examination. I perused the order as also other material placed before me. In my opinion, by allowing the application the substantial justice has been done. The legislature has conferred the powers to condone delay by enacting section 5 of the Indian Limitation Act,1963 in order to enable the courts to do substantial justice to parties by disposing of matters on merits. The expression "sufficient cause" employed is adequately elastic to enable the court to apply the law in the meaningful manner which subserves the ends of justice. From perusal of the facts and circumstances of this case it is clear that the petitioner did not stand to benefit by filing an

application at belated stage. It cannot be presumed that the delay was occasion deliberately. The Supreme Court in **State of Nagaland Vs. Lipok AO and ors, (2005) 3 Supreme Court 752**, while interpreting the words "sufficient cause", has held that what constitutes sufficient cause cannot be laid down by hard-and-fast rules. The said expression should receive liberal construction. The trial Court, in my opinion, for the reasons stated in the order has rightly allowed the application with costs. The order does not suffer from any infirmity warranting interference by this Court under Article 227 of the Constitution. In the circumstances this writ petition is dismissed. The hearing of the suit is expedited.

(D.B.Bhosale, J.)